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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-230**

12 **CLAUDIO FRANCESCO FABRIZI**  
1007 Elk Run Road  
13 Pebble Beach, CA 93953

**ACCUSATION**

14 **Registered Nurse License No. 535114**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about August 8, 1997, the Board of Registered Nursing issued Registered  
23 Nurse License Number 535114 to Claudio Francesco Fabrizi (Respondent). The Registered  
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on October 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an  
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct . . .

10 . . ."

11 6. Section 2725 of the Code states:

12 "(a) In amending this section at the 1973-74 session, the Legislature recognizes that  
13 nursing is a dynamic field, the practice of which is continually evolving to include more  
14 sophisticated patient care activities. It is the intent of the Legislature in amending this section at  
15 the 1973-74 session to provide clear legal authority for functions and procedures that have  
16 common acceptance and usage. It is the legislative intent also to recognize the existence of  
17 overlapping functions between physicians and registered nurses and to permit additional sharing  
18 of functions within organized health care systems that provide for collaboration between  
19 physicians and registered nurses. These organized health care systems include, but are not  
20 limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of  
21 Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and  
22 public or community health services.

23 "(b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act]  
24 means those functions, including basic health care, that help people cope with difficulties in daily  
25 living that are associated with their actual or potential health or illness problems or the treatment  
26 thereof, and that require a substantial amount of scientific knowledge or technical skill, including  
27 all of the following:  
28

1 (1) Direct and indirect patient care services that ensure the safety, comfort, personal  
2 hygiene, and protection of patients; and the performance of disease prevention and restorative  
3 measures.

4 (2) Direct and indirect patient care services, including, but not limited to, the  
5 administration of medications and therapeutic agents, necessary to implement a treatment, disease  
6 prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician,  
7 dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety  
8 Code.

9 (3) The performance of skin tests, immunization techniques, and the withdrawal of human  
10 blood from veins and arteries.

11 (4) Observation of signs and symptoms of illness, reactions to treatment, general behavior,  
12 or general physical condition, and (A) determination of whether the signs, symptoms, reactions,  
13 behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based  
14 on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or  
15 changes in treatment regimen in accordance with standardized procedures, or the initiation of  
16 emergency procedures.

17 "(c) 'Standardized procedures,' as used in this section, means either of the following:

18 (1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2  
19 (commencing with Section 1250) of Division 2 of the Health and Safety Code through  
20 collaboration among administrators and health professionals including physicians and nurses.

21 (2) Policies and protocols developed through collaboration among administrators and  
22 health professionals, including physicians and nurses, by an organized health care system which  
23 is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of  
24 Division 2 of the Health and Safety Code.

25 "The policies and protocols shall be subject to any guidelines for standardized procedures  
26 that the Division of Licensing of the Medical Board of California and the Board of Registered  
27 Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the  
28 Board of Registered Nursing.

1       "(d) Nothing in this section shall be construed to require approval of standardized  
2 procedures by the Division of Licensing of the Medical Board of California, or by the Board of  
3 Registered Nursing."

4       "(e) No state agency other than the board may define or interpret the practice of nursing for  
5 those licensed pursuant to the provisions of the chapter, or develop standardized procedures or  
6 protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required  
7 under state or federal statute. "State agency" includes every state office, officer, department,  
8 division, bureau, board, authority, and commission."

9       7. Title 16, California Code of Regulations, section 1472 states:

10       "An organized health care system must develop standardized procedures before permitting  
11 registered nurses to perform standardized procedure functions. A registered nurse may perform  
12 standardized procedure functions only under the conditions specified in a health care system's  
13 standardized procedures; and must provide the system with satisfactory evidence that the nurse  
14 meets its experience, training, and/or education requirements to perform such functions. "

15       8. Section 2732 of the Code states:

16       "No person shall engage in the practice of nursing, as defined in Section 2725, without  
17 holding a license which is in an active status issued under this chapter [the Nursing Practice Act]  
18 except as otherwise provided in this act.

19       "Every licensee may be known as a registered nurse and may place the letters 'R.N.' after  
20 his name."

21       9. Section 2795 of the Code states:

22       "Except as provided in this chapter [the Nursing Practice Act] , it is unlawful for any person  
23 to do any of the following:

24       "(a) To practice or to offer to practice nursing in this state unless the person holds a license  
25 in an active status .

26       "(b) To use any title, sign, card, or device to indicate that he or she is qualified to practice  
27 or is practicing nursing, unless the person has been duly licensed or certified under this chapter  
28 [the Nursing Practice Act]."

10. Title 16, California Code of Regulations, section 1409.1 states:

"Each person holding a certificate, license or any other authority to practice nursing or engage in any activity under any laws administered by the board shall file his/her current name and mailing address with the board at its office in Sacramento within thirty (30) days after any change of name or mailing address, giving both old and new name, and address, as appropriate."

11. Section 136 of the Code states:

"(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in his or her mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

"(b) Except as otherwise provided by law, failure of a licensee to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines."

12. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the licensee.

13. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTUAL BACKGROUND

15. In or about 2009, Respondent was employed as a registered nurse performing laser hair removal at Ryan Ranch Medical Group in Monterey, California. On or about February 13,

1 2009, Respondent performed laser hair removal on patient J.P.<sup>1</sup> J.P. received blisters, burns and  
2 scarring to her face as a result of Respondent's treatment.

3 16. Respondent performed medical functions (laser hair removal) at Ryan Ranch Medical  
4 Center on patient J.P. on or about February 13, 2009 without having standardized procedures in  
5 place for performing such functions.

6 17. Respondent performed treatment on patient J.P. while his registered nurse license was  
7 expired, as Respondent's registered nurse license expired on October 31, 2008, and was not  
8 renewed until April 22, 2009.

9 18. Respondent moved to Pebble Beach, California in 1997, and failed to notify the  
10 Board of his new address until April 21, 2009.

11 FIRST CAUSE FOR DISCIPLINE

12 (FAILURE TO NOTIFY BOARD OF CHANGE IN ADDRESS)

13 19. Respondent is subject to disciplinary action under sections 2761(a) and 136(a) and  
14 Title 16, California Code of Regulations, section 1409.1, in that he failed to notify the Board of  
15 his new mailing address within 30 days of changing his address, as alleged above in paragraph  
16 18.

17 SECOND CAUSE FOR DISCIPLINE

18 (FAILURE TO PRACTICE UNDER STANDARDIZED PROCEDURES)

19 20. Respondent is subject to disciplinary action under sections 2761(a), 2725 and Title  
20 16, California Code of Regulations, section 1472 in that he acted unprofessionally when he  
21 performed medical functions (laser hair removal) without standardized procedures in place, as  
22 alleged above in paragraphs 15 and 16.

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27 <sup>1</sup> Patient initials are used herein to protect the patient's privacy. The patient's identity will  
28 be released pursuant to a proper request for discovery.

THIRD CAUSE FOR DISCIPLINE  
(PRACTICE ON EXPIRED LICENSE)

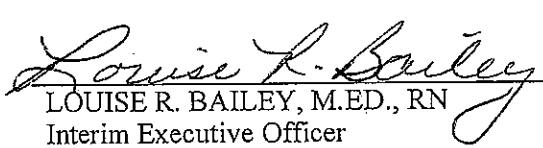
21. Respondent is subject to disciplinary action under sections 2761(a), 2732, and 2795 in that he performed nursing and medical functions without a valid nursing license, as alleged above in paragraph 17.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 535114, issued to Claudio Francesco Fabrizi;
2. Ordering Claudio Francesco Fabrizi to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/15/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SF2010201821